

1 HOUSE BILL NO. 143

2 INTRODUCED BY C. LAMBERT

3 BY REQUEST OF THE PUBLIC EMPLOYEES' RETIREMENT BOARD

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE LIABILITY OF THE PUBLIC EMPLOYEES'
6 RETIREMENT BOARD WITH RESPECT TO ACTS OR OMISSIONS OF AND INCORRECT REPORTING BY
7 EMPLOYERS OR OTHER REPORTING AGENCIES; AMENDING SECTION 19-2-511, MCA; AND PROVIDING
8 AN IMMEDIATE EFFECTIVE DATE."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 **Section 1.** Section 19-2-511, MCA, is amended to read:

13 **"19-2-511. Limitation of liability.** (1) The board shall exercise its fiduciary authority in the same manner
14 that would be used by a prudent person acting in the same capacity who is familiar with the circumstances and
15 in an enterprise of a similar character with similar aims.

16 (2) Plan fiduciaries are not liable for any loss to a participant's or beneficiary's account under a defined
17 contribution plan or an optional retirement program established pursuant to 19-21-101 ~~participant's or~~
18 ~~beneficiary's account~~ that results from the participant's or beneficiary's exercise of control.

19 (3) Plan fiduciaries are not responsible for the acts or omissions of any employer or reporting agency
20 or of any vendor providing services to the defined contribution plan or optional retirement program. Nothing in
21 this subsection limits the liability of any vendor for services required by contract.

22 (4) Plan fiduciaries are not liable for their reliance on the express provisions of the defined contribution
23 plan or optional retirement program.

24 (5) Plan fiduciaries are not liable for investment losses incurred in the defined contribution plan or
25 optional retirement program as a result of incorrect reporting by an employer or other reporting agency."

26

27 NEW SECTION. **Section 2. Two-thirds vote required.** Because amendments in [section 1] expand
28 a limit on governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds
29 of the members of each house of the legislature for passage.

30

